

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LEVITON MANUFACTURING CO., INC.,)	No. C05-0497L ORDER OF DISMISSAL
Plaintiff,)	
v.)	
UNIVERSAL SECURITY INSTRUMENTS,)	
INC., <i>et al.</i> ,)	
Defendants.)	
SHANGHAI MEIHAO ELECTRIC INC.,)	
Plaintiff/Counter-Defendant,)	
v.)	
LEVITON MANUFACTURING CO., INC.,)	
Defendant/Counter-Plaintiff.)	

This matter comes before the Court on plaintiff “Leviton’s Motion to Withdraw its Motion to Compel Subpoena on Leen & Associates d/b/a The Designers Edge.” The litigation was initiated as a miscellaneous matter to enforce a third-party subpoena directed to Leen & Associates, d/b/a The Designers Edge. When the motion to compel production was opposed by The Designers Edge, the matter was given a civil cause number and assigned to a district court judge for disposition.

Plaintiff now seeks to withdraw its motion to compel, effectively ending this
ORDER OF DISMISSAL

1 litigation. The parties agree that the judge presiding over the underlying litigation in Maryland
2 has barred enforcement of the third-party subpoena directed to The Designers Edge, but they
3 disagree whether, upon withdrawal of the operative motion to compel, this action should be
4 dismissed with or without prejudice.

5 Having reviewed the memoranda, declarations, and exhibits submitted by the
6 parties¹ and having considered the record as a whole, the Court finds as follows:

7 (1) Although the Declaration of Deepto Mukerjee in Support of Motion to Compel (Dkt.
8 # 2) indicates that the underlying subpoena is attached as Exhibit B, no exhibits were actually
9 filed with the declaration. The Court has therefore been unable to review the underlying
10 subpoena in order to evaluate the likelihood that plaintiff may need discovery of similar records
11 and/or testimony in the future.

12 (2) The risk of unfairly precluding plaintiff from seeking discovery that may be necessary
13 in the future outweighs the benefits associated with a dismissal with prejudice.

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15 For all of the foregoing reasons, plaintiff's motion to withdraw the underlying
16 motion to compel is GRANTED. This matter is hereby dismissed without prejudice.

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18 DATED this 24th day of June, 2005.

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21 Robert S. Lasnik
22 United States District Judge
23
24

25 ¹ Sur-replies are not authorized under the local rules of civil procedure and there was no
26 justification for such an extraordinary filing in the circumstances presented here. The Court has
therefore not considered the sur-reply filed by The Designers Edge.